

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

ANTHONY SCOTT WHITE,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Defendant.

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CIVIL ACTION NO. 5:24-CV-00007-RWS-
JBB

ORDER

Before the Court is Petitioner Anthony Scott White's petition for writ of habeas corpus challenging the legality of his confinement. Docket No. 1. The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636.

On July 24, 2024, the Magistrate Judge issued a Report recommending dismissal of the petition without prejudice for failure to exhaust state remedies. Docket No. 17. It was further recommended that a certificate of appealability be denied *sua sponte*, with such denial referring solely to an appeal of the decision in this case and having no effect upon Petitioner's right to seek relief in state court through any proper means, or to again seek relief in federal court in the event that the state courts do not grant him the relief he seeks. *Id.* at 4.

A copy of this Report was sent to Petitioner at his last known address, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420–21 (5th Cir. 2019); *see also id.* at 421 n.9.

Because no objections have been received, Petitioner is barred from *de novo* review by the District Judge of the Magistrate Judge's proposed findings, conclusions and

recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

The Court has reviewed the pleadings in this cause and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 17) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-captioned petition for writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state remedies. A certificate of appealability is **DENIED sua sponte**, with such denial referring solely to an appeal of the decision in this case and having no effect upon Petitioner's right to seek relief in state court through any proper means, or to again seek relief in federal court in the event that the state courts do not grant him the relief he seeks.

So ORDERED and SIGNED this 4th day of September, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE